

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDUARDO H. JIMENEZ PEREZ,
Petitioner/Pro-se,

v.

UNITED STATES OF AMERICA
Respondent.

Civil Action

No.: 1:25-cv-03400-JHR-JW

**MOTION TO ENFORCE SUBPOENA COMPLIANCE AND TO
PRESERVE PROCEDURAL FAIRNESS**

TO THE HONORABLE JENNIFER WILLIS, U.S. MAGISTRATE JUDGE:

Petitioner Eduardo H. Jimenez Perez respectfully submits this motion to enforce compliance with the subpoena duces tecum, formally titled "Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action," which was authorized by this Court on May 15, 2025, and duly served on May 16, 2025, upon former defense counsel Frederick L. Sosinsky, Esq., in connection with Petitioner's pending Petition for Writ of Error Coram Nobis.

This motion is brought pursuant to Fed. R. Civ. P. 45(d)(2)(B)(i), Fed. R. Civ. P. 37(a), and the Court's inherent equitable authority. On June 5, 2025, Petitioner filed a Motion to Compel Compliance with Subpoena Duces Tecum, which was physically submitted to the Clerk of Court and docketed as ECF No. 34. On June 18, 2025, the Honorable District Judge Jennifer H.

Rearden entered an Amended Order of Reference (ECF No. 36), formally referring that motion and related matters to Your Honor for resolution.

As of the date of this filing—June 30, 2025—more than eleven (11) days have passed since the Court's referral order, and Mr. Sosinsky has still not responded to the subpoena. He has neither requested an extension nor filed a motion to quash. Petitioner respectfully submits that, in the absence of any judicial enforcement or further directive, this continued delay materially impairs Petitioner's ability to develop the factual record needed to respond to the Government's memorandum of opposition filed on June 27, 2025.

The Government's memorandum of opposition, filed June 27, 2025, relies heavily on Petitioner's purported "lack of evidence," making Mr. Sosinsky's compliance essential to a fair adjudication. The subpoena specifically requested documents including communications, notes, legal memoranda, plea negotiations, and specific immigration advisories provided by Mr. Sosinsky regarding the immigration consequences of Petitioner's guilty plea. These materials directly bear upon Petitioner's Sixth Amendment claim and are essential to establishing counsel's ineffective assistance.

Mr. Sosinsky's noncompliance now exceeds 40 days from the original deadline of May 20, 2025, without justification, acknowledgment, or any communication. The absence of these critical documents undercuts Petitioner's capacity to respond fully and adequately to the DOJ's opposition memorandum, thereby affecting the fairness and completeness of the evidentiary record before the Court. Petitioner highlights that more than 40 days have passed since the original compliance deadline, during which attorney Sosinsky has maintained absolute silence, further exacerbating the procedural prejudice.

On June 24, 2025, the Government obtained a limited unsealing order to access sealed plea and sentencing materials in support of its opposition. In light of this, Petitioner respectfully requests reciprocal enforcement to ensure that the record is developed fairly and that Petitioner is not prejudiced by the absence of equally material evidence that remains under Mr. Sosinsky's exclusive control.

Petitioner further invokes the principles of judicial efficiency embodied in Fed. R. Civ. P. 1, which directs that the rules “be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Absent timely enforcement, the ongoing noncompliance not only prejudices Petitioner but also delays the orderly resolution of the constitutional issues presented.

In addition, Petitioner invokes the principle of procedural fairness recognized by the Second Circuit in *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995), which affirms the necessity of ensuring that judicial proceedings are conducted on a complete and balanced record. The Court’s equitable powers should be exercised to prevent one party’s silence or obstruction from depriving the other of a fair opportunity to be heard.

Petitioner does not seek at this stage to rebut the Government’s opposition or pre-argue the merits of the Petition. Rather, this motion is made strictly to ensure that the Court has access to the full evidentiary record before proceeding to any determination or further briefing.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue an order compelling Mr. Frederick L. Sosinsky, Esq., to fully comply with the subpoena duces tecum immediately;
2. Direct Mr. Sosinsky to produce all requested documents no later than seven (7) days from entry of the Court's order, or alternatively, require Mr. Sosinsky to appear and show cause why he should not be held in contempt;
3. Consider the imposition of civil contempt sanctions under Fed. R. Civ. P. 45(g), including monetary penalties, to address the ongoing and unjustified noncompliance by Mr. Sosinsky;
4. Issue any further orders necessary to ensure Petitioner's ability to respond adequately to the DOJ's memorandum (ECF filed June 27, 2025), given that the current lack of compliance severely impairs Petitioner's constitutional right to fully present his case; and
5. Grant such other and further relief as this Court deems just, equitable, and appropriate to preserve the fairness and integrity of these proceedings.

Respectfully submitted,



Eduardo H. Jimenez Perez
Petitioner, Pro Se
301 East 99th Street, Apt. 303
New York, NY 10029
rp_eduardo@hotmail.com
Dated: June 30, 2025

CERTIFICATE OF SERVICE

I, Eduardo H. Jimenez Perez, hereby certify that on June 30, 2025, I served a true and correct copy of the foregoing Motion to Enforce Subpoena Compliance and to Preserve Procedural Fairness upon the following parties via U.S. Mail and email:

Rebecca S. Delfiner, Esq.
Assistant United States Attorney
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Email: rebecca.delfiner@usdoj.gov

Clerk of the Court
United States District Court – SDNY
500 Pearl Street
New York, NY 10007



Eduardo H. Jimenez Perez
Petitioner, Pro Se
Dated: June 30, 2025

~~PROPOSED~~ ORDER

Upon consideration of the Motion to Enforce Subpoena Compliance and to Preserve Procedural Fairness filed by Petitioner Eduardo H. Jimenez Perez, it is hereby ORDERED as follows:

ORDERED that attorney Frederick L. Sosinsky, Esq., shall comply with the subpoena duces tecum issued on May 15, 2025 and served on May 16, 2025; and it is further

ORDERED that Mr. Sosinsky shall produce all responsive documents within seven (7) days of this Order, or appear before this Court and show cause why he should not be held in contempt under Fed. R. Civ. P. 45(g); and it is further

ORDERED that failure to comply may result in civil contempt sanctions, including monetary penalties and other appropriate relief.

SO ORDERED.

Dated: July 7, 2025
New York, NY

HON. JENNIFER E. WILLIS

Jennifer E. Willis
U.S. Magistrate Judge

The Clerk of Court is respectfully requested to close Dkt. Nos. 34 and 41. SO ORDERED.

Jennifer E. Willis
JENNIFER E. WILLIS
UNITED STATES MAGISTRATE JUDGE
July 7, 2025